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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,102	03/17/2000	Robert Giannini	JARB.004PA	5258
40581 7590 02/05/2009 CRAWFORD MAUNU PLLC 1150 NORTHLAND DRIVE, SUITE 100 ST. PAUL, MN 55120				
EXAMINER				
KARMIS, STEFANOS				
ART UNIT		PAPER NUMBER		
3693				
MAIL DATE		DELIVERY MODE		
02/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: ROBERT GIANNINI and ROBERT CRAWFORD

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Application No. 09/531,102  
Technology Center 3600

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Mailed: February 5, 2009

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Before TOI JOHNSON *Review Paralegal*  
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 9, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure*

(MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed December 5, 2008 is deficient because the "Evidence Relied Upon" section fails to include the reference Rose (5,930,769) cited on page 6 in the Examiner's Answer's grounds of rejection for claim 18 under 35 USC § 103(a).

Appropriate correction is required.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on February 4, 2009. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue a PTOL-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8);
  - 2) consider the Reply Brief filed February 4, 2008 as indicated above;
- and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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